

Remarks

Claims 1-29 are of record pending in this application.

Claims 30-53 have been cancelled.

Applicants have cancelled non-elected claims 30-53 in order to expedite the present application. However, Applicants wish to preserve their right to file a divisional application related to the cancelled non-elected claims.

Rejection: 35USC§102(e)

Claim 1-29 stand rejected under 35 USC§102(e) as being anticipated by International application WO 03/089027A2.

Applicants would like to point out that this International application does not designate the United States. Thus this International application does not have a U.S. filing date of April 2003 (see MPEP 2136.03II).

Applicants note that the International application claims the benefit of priority from two US provisional applications. However, non-US applications can not have an effective US filing date from its priority claim (see MPEP 2136.03.II.B). Thus, the applied reference cannot be used under 35USC§102(e).

Applicants, however, would like to bring to the Examiner's attention US Serial No.: 10/414475, on appeal, which was filed in the US on the same day as the International application relied on by the Examiner and which claims priority from the same two provisionals.

Applicants would also like to point out that US provisional applications 60/373083 and 60/405667 do not necessarily have the same specifications as the applications claiming priority therefrom.

Rejection: 35USC§102(b)

Claims 1-29 stand rejected as anticipated by WO 01/02037 A1. This is a publication with a publication date of January 11, 2001. It is Applicant's position that the '037 publication does not disclose all features of Applicants' claims 1-29.

Claim 1 of the instant application requires

"a memory for storing at least one centrifuge speed...information related to at least one first transfer flow rate...and at least one second transfer flow rate...whereby the at least one first transfer flow rate and the at least one second transfer flow rate are different; and"

" a control unit programmed...so as to transfer the at least one portion of the first component from the separation bag into the first component bag at the at least one first transfer flow rate, and to transfer the intermediate component bag at the at least one second transfer flow rate".

Applicants' claim 1 requires a programmed control unit and memory for a first component transfer into the first component bag and an intermediate component transfer to the intermediate component bag. The claimed apparatus is for separation into a first component and an intermediate component including a second component.

International Application No.: WO 01/02037, however does not discuss transfer flow rates nor does it disclose the memory or programmed control unit of Applicants' claims for the transfer of a first component and an intermediate component. The reference therefore does not describe or disclose Applicants' invention as set forth in Claim 1.

As WO 01/0237 does not disclose all the features of independent claim 1, the publication cannot disclose the features of Claims 2-26 that depend therefrom. In addition, the reference does not describe two sensors as set forth in Applicants' claim 4. Also, there is no disclosure of a variation of speed so as to mix as in Applicants' claim 5. WO 01/02037 gives no details as to centrifuge speed as set forth in Applicants' other dependent claims. There is also no disclosure of a third component sensor (claim 11) or transfer of air (Applicants' claim 16).

With respect to Applicants' claim 17, Applicant notes that the reference describes specifically only a procedure for platelets in plasma. There is also no disclosure in the reference of a memory for information related to transfer of a third component (Applicants' claims 18-26).

The above statements provide only some of the deficiencies of the reference with respect to dependent claims 2-26.

As for independent claim 27, and claims 28-29 that depend therefrom, again, the reference fails to disclose the claimed memory and programmed control unit as discussed with respect to the rejection of claim 1 above.

Rejection: 35USC§103(a)

Claims 1-29 stand alternatively rejected as obvious over WO 01/02037A1. Applicants disagree with the Examiner with respect to this rejection.

As described above the reference discloses a process related to collection of buffy coat (platelet in plasma). As there is no disclosure in the reference of multiple component collection, the features associated with multiple component collection cannot be obvious.

There is no suggestion in the reference of a first component and intermediate component transfer as set forth in Applicants' independent claims 1 and 27. Applicants are thus unclear as to how the claimed features associated with multiple component transfers can be merely obvious modifications. Applicants ask the Examiner to reconsider this rejection of claims 1-29 under 35USC§103(a).

Applicants request a 2 month extension with the filing of this response. It is believed a fee is required for this filing. Please charge the appropriate amount to Deposit Account 032316.

If there are any questions, or if prosecution can be expedited in any manner by a telephone conference, the Examiner is urged to call Applicants representative at the below telephone number.

Respectfully submitted,

January 17 2007
Date



Edna M. O'Connor (Reg. No: 29,252)
Gambro BCT, Inc.
10810 W. Collins Ave.
Lakewood, Colorado 80215
Telephone: (303) 231-4132